

REMARKS

Claims 1 through 21 are pending in the application. Claims 22 through 26 have been withdrawn from consideration. Claims 1 through 21 have been rejected under 35 U.S.C. §112, second paragraph. Claims 1 through 7, 13 - 15 and 18 - 21 have been rejected under 35 U.S.C. §103 as being unpatentable over Hodson et al. in view of Fortenberry. Claims 8 - 12, 16 and 17 are objected to as being dependent upon a rejected base claims, but would be allowable if rewritten in independent form. Claims 1, 8, 11 and 16 have been amended. The specification and drawings have been amended. The applicants respectfully request reconsideration of the present application in light of the above amendments to the claims and the remarks below.

The specification and drawings have been amended to correct typographical errors in the labeling of certain features of the present invention. Specifically, the specification (at page 27) and Figures 22 and 24 have been amended to correctly identify the roller as number 628 instead of number 620. figure 31 has been corrected to identify the post of the slipping clutch as number 813. Figure 31a has been corrected to properly indicate housing 812. None of these changes to the specification and drawings add new matter. The Examiner is respectfully requested to consider these redline changes to the drawings and the applicants will submit formal drawings at the soonest possible opportunity.

On page 2 of the Office Action, the Examiner has rejected claims 1 through 21 under 35 U.S.C. §112, second paragraph on the grounds that it is not clear from the claim language exactly what the applicants intend to be the invention. The applicants have amended claim 1 in order to make it clear that the applicants are claiming solely an inhalation device, and not an inhalation device in combination with a medicament pack. The inhalation device of the present invention as recited in claim 1 is for use with a medicament pack but does not include the pack. The Examiner has stated that the body of the claim contains at least one positive recitation of the medicament pack structure. The applicant has amended claim 1 to positively recite only the structure of the inhalation device and not the medicament pack. If the Examiner believes the language of the claim is still unclear, the applicants are openly receptive to any suggestions from the Examiner as to how to make the claim more clear.

In the first full paragraph on page 3, the Examiner has rejected claims 1 through 7, 13 - 15, and 18 - 21 under 35 U.S.C. §103 as being unpatentable over Hodson et al in view of Fortenberry. The rejection based on the Hodson reference is improper with respect to the claims of the present application which are entitled to a priority of March 2, 1990 on the basis of U.K. application no. 90 04781.2. The Hodson application is only valid as a reference against the present application as of its international publication date, November 15, 1990. The only

claims of the present application which have been rejected on the basis of the Hodson reference which are not entitled to the March 2, 1990 priority date are claims 14 and 15. Claims 14 and 15 find support in material in specification of the present application which was added to the U.K. specification prior to its filing in the United States. Therefore, claims 14 and 15 are not entitled to the priority date and the rejection based on Hodson is therefore proper only with respect to these two claims.

Both claims 14 and 15 of the present application are directed to a lid driving means. As recited in claim 4 at lines 4 through 8 and at claim 5 in lines 1 through 3, the lid driving means pulls the lid sheet apart from the base sheet at the opening station. As indicated by the Examiner on page 3 of the Office Action, Hodson et al does not disclose a means for opening a container for the medicament which is in the form of two members peelably secured to one another. The lid sheet and the base sheet as recited in base claims 4 and 5, upon which the lid driving means of claims 14 and 15 operate, are the two members peelably secured to one another which the Examiner has indicated Hodson does not disclose. In order to reject claims 14 and 15, the Examiner has had to combine the teachings of Hodson with that of Fortenberry for the additional teaching of a medicament container in the form of two members peelably secured to one another.

Although Fortenberry does disclose two peelable members, the invention of Fortenberry is directed to the

dispensing of a pill. As seen in Figures 9 and 11 of Fortenberry, the pill 56 drops into chamber 40 and access to the pill is obtained through opening 44. The Examiner has shown no motivation or suggestion, either in Hodson or Fortenberry as to the desirability of combining the two references. Even if there were motivation to combine Hodson and Fortenberry, the resulting device would be inoperable. A pill can be expected to drop out a container when it is opened, in the way shown in Figure 11 of Fortenberry, but a powder cannot be expected to do so, or at least not with the reliability which is required in the device for medical purposes. In all probability, the powder would remain in the containers of Fortenberry, even after the sheets had been peeled apart.

In the present invention, which is designed as an inhalation device, inhalation by the user causes an air flow to entrain powder from the opened medicament container. There is no reason to suppose that any airflow created by a user inhaling through a hypothetical mouthpiece, added to the device of Fortenberry, would have any such entrainment effect.

Since there is no suggestion or motivation to combine the Hodson and Fortenberry references, the lid driving means of claims 14 and 15 are not obvious in view of these two references. Even if there were such a motivation or suggestion, the device resulting from the combination of Fortenberry and Hodson is inoperable. Therefore, the §103 rejection of claims 14 and 15 on

the basis of Hodson and Fortenberry is incorrect and the applicants respectfully request reconsideration thereof.

Claims 8 through 12, 16 and 17 have been rewritten in independent form, including all of the limitation their base and intervening claims. As indicated by the Examiner, in the penultimate paragraph on page 4 of the Office Action these claims are now in condition for allowance.

The applicants wish to bring to the Examiner's attention U.S. Patent 5,042,472 to Bunin as indicated in the accompanying invention disclosure statement. Bunin describes what he refers to as a powder inhaler device. In reality, however, the Bunin device is really only a medicament pack, from which one inhales directly. As can be seen, for example in Figure 1 of Bunin, there are a number of compartments (8 compartments shown in the Figure), each of which contains powdered medicament. When a user desires to inhale a medicament from Bunin's pack, the user peels off the lid 9 from one of the containers, places his or her mouth over the aperture 5, which is exposed by the peeling action, and inhales. During inhalation, air supposedly flows into the compartment through an aperture 7. As can be seen from the figures and specification of Bunin, his medicament pack bears little relation to the inhalation device as is presently recited in claims 1 through 21 of the present application.

CONCLUSION

The applicant has amended claim 1 of the present application to clearly recite that the applicant is claiming an inhalation device and not an inhalation device in combination with a medicament pack. Applicant believes claim 1 as amended overcomes the §112, second paragraph rejection as indicated by the Examiner.

The application of the Hodson reference is improper with respect to all of the rejected claims except claims 14 and 15 of the present application. Claims 14 and 15 are patentably distinct from the Hodson reference in view of Fortenberry, since there is no teaching or motivation to combine the two references, and even if the two references were combined, the resulting device would be inoperable and would still not render the present invention obvious. Claims 8 through 12, 16 and 17 have been amended so as to not rely upon rejected base claims and are currently deemed in a condition for allowance.

The applicant has amended the specification and drawings in order to correct certain typographical errors. These amendments add no new matter to the present application.

In light of the above amendments and remarks to the present application, reconsideration of the remainder of rejected

claims is respectfully requested.

Respectfully submitted,



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